

Nebraska Sales and Use Tax

General Information 2015

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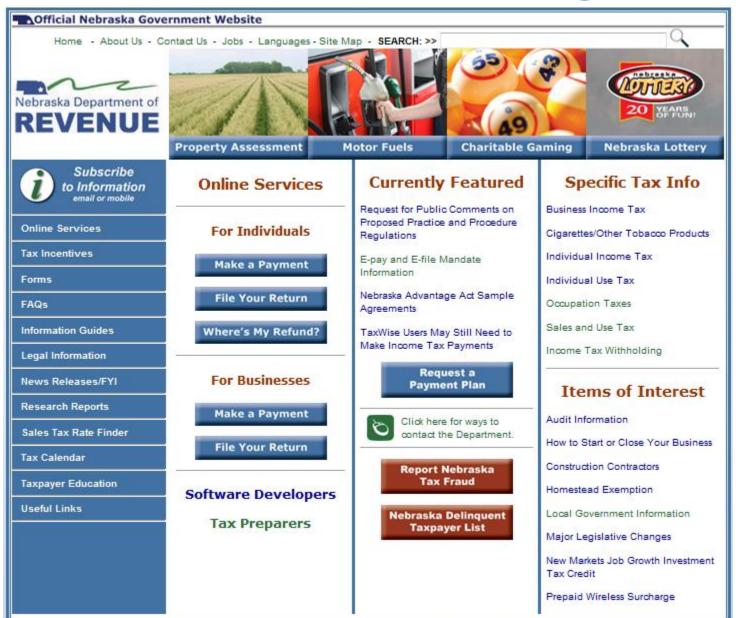
Nebraska tax statutes, regulations, information guides, and other resources are available at <u>revenue.nebraska.gov</u>.



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Nebraska Department of Revenue

Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes. Click here for more information.



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Sales Tax Exemption for Agricultural Repair and Replacement Parts

Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes.

- LB 96 (2014)
- News Release (09/30/2014)
- Information Guide: Agricultural Machinery and Equipment Sales Tax Exemption
- Nebraska Resale or Exempt Sale Certificate, Form 13

The purchaser must issue to the seller a properly completed Form 13, Section B, exempt category 2, to exempt the purchase from tax.

- Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1
- Nebraska Sales Tax Exemption Chart
- Reg-1-094, Agricultural Machinery and Equipment Refund

Nebraska Department of Revenue Site Map

Main Revenue Site | Charitable Gaming Division Motor Fuels Division | Property Assessment Division

Main Revenue Site

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 - Nebraska Advantage Transformational Tourism and Redevelopment Act
 - Sports Arena Facility Financing Assistance Act
 - Tax Increment Financing (TIF)

E-file and Electronic Payment Mandates

The payment threshold is lowered annually.

- July 1, 2014
- July 1, 2015
- July 1, 2016
- July 1, 2017 and after

\$ 8,000

\$ 7,000

\$ 6,000

\$ 5,000

Any businesses with multiple locations that have been granted permission to file "combined" sales tax returns must e-file.

Today's Agenda

- Nebraska Sales Tax
- Sales Tax is Calculated on Gross Receipts
- Delivery Location and the Local Sales Tax
- Collecting, Documenting, and Reporting Sales Tax
- Nebraska e-pay
- What is Use Tax?
- Other Tax Information

Nebraska Sales Tax

For more information, see the <u>Sales and Use Tax Regulations</u> on our website.

Sales tax is...

- ... a transactional tax,
- ... based on the transaction,
- ... rather than the item sold.

A sale is...

- ... the transfer of title or possession,
- ... of an item or taxable service,
- ... for consideration.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

A lease or rental of tangible personal property...

...can be a sale,

...if there is transfer of possession.

Sales tax is due on each lease or rental payment.

All sellers...

- ...are the consumers of anything they use to sell their items and services; and
- ...must pay tax on them.
 - Example 1. Cash registers
 - Example 2. Security services

Taxable Services

- Animal specialty services
- Building cleaning
- Computer software training
- Detective services
- Installing/applying tangible personal property
- Motor vehicle towing, washing/waxing, painting
- Pest control services
- Recreational vehicle (RV) park services
- Security services
- Repair labor (with 5 exceptions see slide 55)

For a more complete list of taxable and nontaxable services, see the Nebraska and Local Sales Tax Information Guide on our website.

All service providers...

- ...are the consumers of the taxable items and services used to provide the service; and ...must pay tax on those items or services (even if the charge for the service is also taxable).
 - Example 1: The carwash does not sell soap and wax, but a "car wash."
 - Example 2: A window cleaner is not selling window cleaning solution, but "clean windows."

Collecting Sales Tax

- Collected by the seller as an agent for the State
- Held in trust for the State of Nebraska
- Must have a sales tax permit
- Collection fee

Sales Tax is Calculated on Gross Receipts

Gross receipts...

...means the total amount of a sale or lease for a consideration.

Sales tax is calculated on the gross receipts of the sales transaction.

For more information, see Reg-1-007 – Gross Receipts Defined.

Delivery Location and the Local Sales Tax

The delivery location determines the Local Sales Tax.

- The delivery location is where the purchaser picks up the item or where he/she takes possession of it.
- The local sales tax rate depends on whether the delivery location is inside or outside city limits.
- When delivery is outside Nebraska, contact the other state.

Local Sales Tax Increase

Neb. Rev. Stat. § 77-27,142

- A municipality, except Omaha, may impose a local sales tax of 1.75% or 2% if the rate increase is approved by at least 70% of the municipality's governing body and by a vote of the voters residing in the municipality.
- For further information, contact Karen Barrett at 402-471-5980.

Sales Tax Rate Finder

Collecting, Documenting, and Reporting Sales Tax

The Bottom Line for Sales Tax

- All sales transactions are presumed taxable.
- Sales tax must be separately stated (with 4 exceptions).

The Bottom Line for Sales Tax

Sellers must collect sales tax or document why they did not.

Documenting Exempt Sales

- Form 13
- Sellers keep completed copies of Form 13.
- A "blanket" form is valid until it is revoked in writing by the purchaser.

Documenting Exempt Sales

Nebraska Resale Certificate Form 13, Section A

- Purchases for resale
- Items that become a component part of a product to be sold

Form 13, Section A

Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption Reset FORM Reset instructions on reverse side/see note below FORM 13					
NAME AND MAILING ADDRESS OF PURCHASER	NAME AND MAILING ADDRESS OF SELLER				
Name	Name				
Street or Other Mailing Address	Street or Other Mailing Address				
City State Zip Code	City State Zip Code				
Check Type of Certificate Single Purchase Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)					
SECTION A — Nebraska Resale Certificate					
I hereby certify that the purchase, lease, or rental of from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: Wholesaler Retailer Manufacturer Lessor of Description of Product Sold, Leased, or Rented					
and hold Nebraska Sales Tax Permit Number 01-	If None, State Reason				
or Foreign State Sales Tax Number	State				

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Nebraska Exempt Sale Certificate Form 13, Section B

- Specific governmental units
 - Governmental Entities Information guide
 - Reg-1-012C Entity-based exemptions
- Certain exempt organizations
 - Nonprofits Information guide
 - Nonprofits PowerPoint slides
 - Reg-1-090 Nonprofit organizations
 - Reg-1-091 Religious organizations
 - Reg-1-092 Educational institutions

Form 13, Section B

- Qualified manufacturing machinery and equipment (MME)
 - MME Information guide
 - MME PowerPoint slides
 - Reg-1-107 MME Exemption
- Vehicles and parts for vehicles used by a common or contract carrier
 - Common or Contract Carrier Information guide
 - Reg-1-069 Common & Contract Carriers

Form 13, Section B

- Qualified commercial agricultural machinery and equipment (ag exemption)
 - Ag Information guide
 - Agri-business PowerPoint slides
 - Reg-1-094 Ag machinery & equipment refund
- Occasional sales (This exemption is very limited in scope!)
 - Reg-1-022 Occasional sales

Collecting, Documenting, and Reporting Sales Tax (continued)

Form 13, Section B

Nebraska Resale or Exempt Sale Certificate				FORM			
REVENUE	for Sales Tax Exemption Read instructions on reverse side/see note below RESET FORM						
NAME AND	MAILING ADDRESS OF PURCHASER	on reverse side	SELLER				
Name		Name					
Street or Other Mailing Addr	Street or Other Mailing Address		Street or Other Mailing Address				
City	State Zip Co	de City	State	Zip Code			
Olly	219 00	ac ony	State	Zip oodo			
Check Type of Certificate							
Sing	le Purchase Blanket If blanket is ch	ecked, this certi	ficate is valid until revoked in writing by th	e purchaser.			
I hereby certify	that the purchase, lease, or rental by the abo	ve purchaser is	exempt from the Nebraska sales tax for	the following reason:			
Check One Purc	hase for Resale (Complete Section A)	empt Purchase (Complete Section B) Contractor ((Complete Section C)			
	SECTION B — Nebra	ska Exemp	t Sale Certificate				
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)							
If exemption category 2 or 5 is claimed, enter the following information:							
Description of Item(s) Purch	of Item(s) Purchased Intended Use of Item(s) Purchased						
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-							
If exemption category 6 is claimed, seller must enter the following information and sign this form below:							
Description of Item(s) Sold	Date of Seller's 0	riginal Purchase	Was Tax Paid when Purchased by Seller?	Was Item Depreciable?			
			☐YES ☐ NO	☐YES ☐ NO			

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Form 13, Section C – For Contractors Only

Nebrask Nebrask REVENUE	for Color Tay Everytion					
			MAILING ADDRESS OF S	ELLER		
Name		Name				
Street or Other Mailing Address		Street or Other Mailing Address				
City State	Zip Code	City	State	Zip Code		
Check Type of Certificate						
Single Purchase Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.						
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:						
Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)						
	OFOTION O. F.	0				
	SECTION C—FO	r Contractors Only				
1. Purchases of Building Materials or Fixtures:						
As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-						
2. Purchases Made Under Purchasing Agent Appointment on behalf of:						
Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.						

There is a seminar just for <u>contractors</u>! Check the schedule to attend a class, request that we set a date to work with you directly, or check out the presentation using the link above!

Nebraska Form 13

Errors

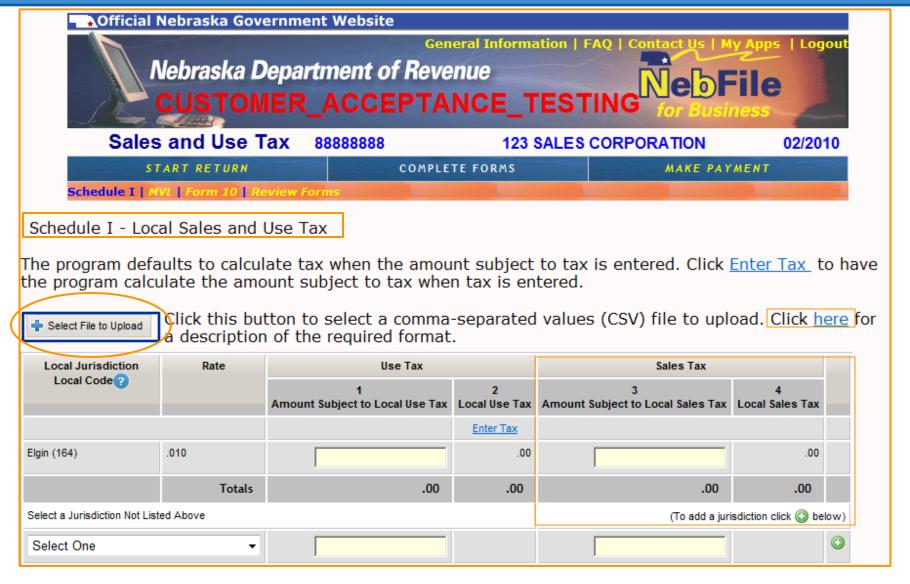
- Seller accepts other state's form
- Incomplete or inaccurate
 - Completed with inaccurate information
 - Business entity type has changed, form is not valid

Things to consider

- Put process in place that makes sense for your business
- When accepting the Form 13, check for errors or omissions on the form
- Evaluate form storage system
 - Be sure you can locate forms upon request
 - Digital storage is acceptable

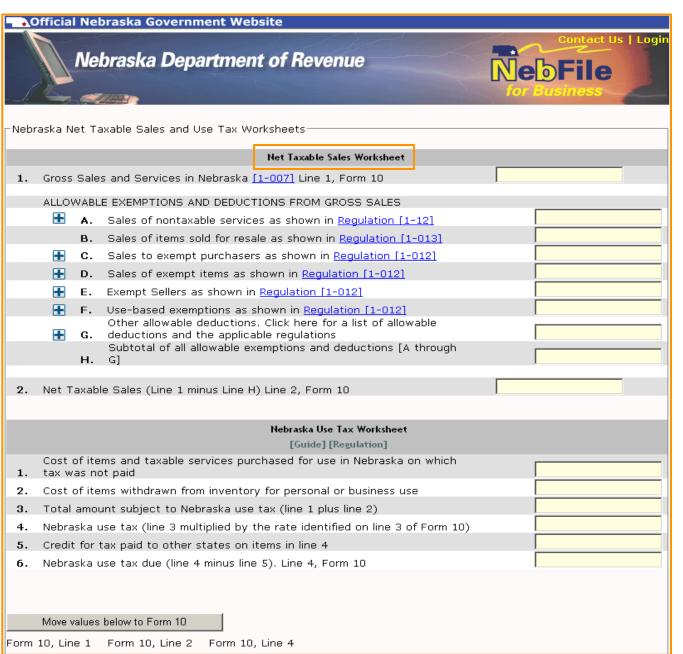
Reporting Sales Tax

- E-file a Form 10.
- For e-file instructions, please go to the Department's <u>website</u>.
- A return must be filed even if there are no sales to report.



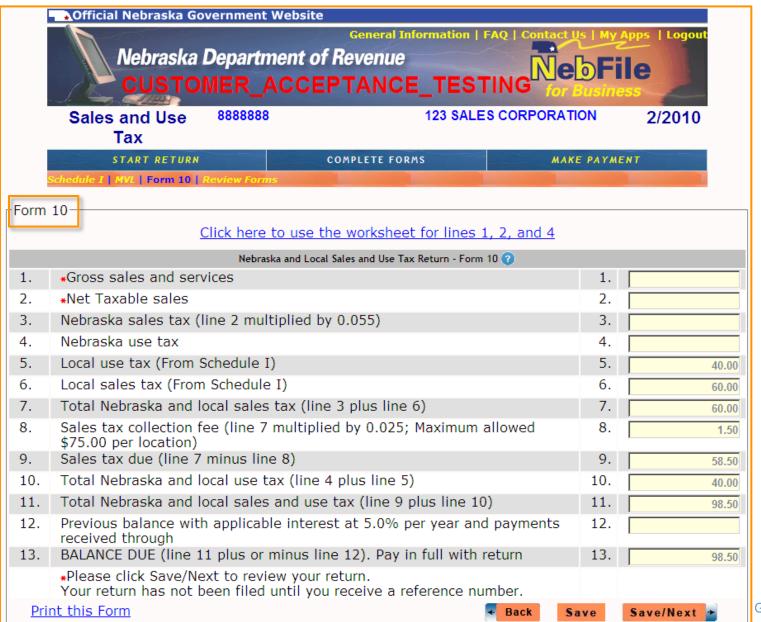
- The file upload feature allows taxpayers who report sales tax to multiple tax jurisdictions to upload a comma-separated values (CSV) file.
- There is no requirement to use this feature. It is simply a convenience some filers may choose. See "Click here" for more information.

Collecting, Documenting, and Reporting Sales Tax (continued)



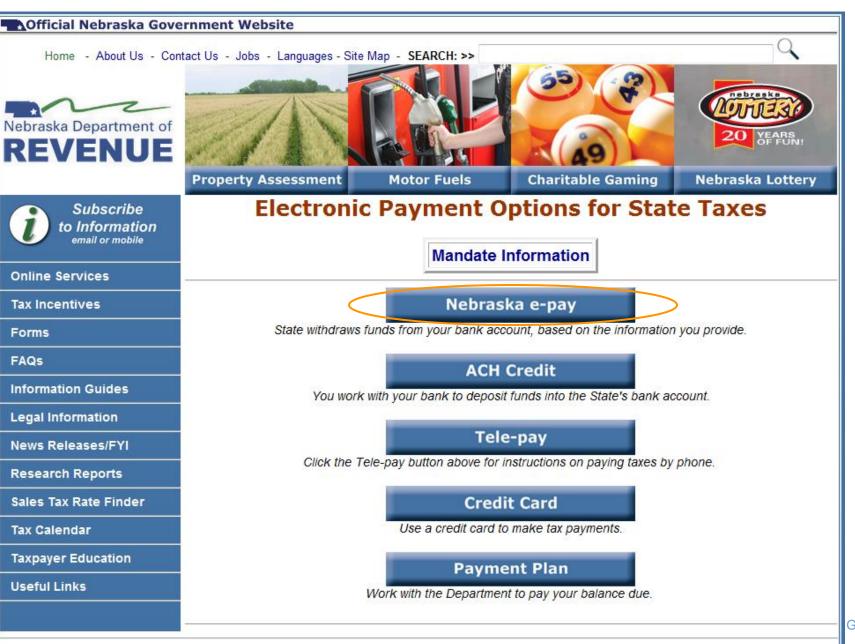
This screen shows the optional **Net Taxable** Sales Worksheet used to help calculate lines 1 and 2 on Form 10.

Collecting, Documenting, and Reporting Sales Tax (continued)



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Nebraska e-pay



What is Use Tax?

For more information, see Reg-1-002 – Use Tax.

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the Department by the purchaser/consumer.

Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs; or
 - Where first usage in Nebraska takes place.

When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
 - o Internet, catalog, mail order
 - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

Note: Be sure to maintain good records!

Reporting Use Tax

- Businesses report use tax on:
 - o <u>Form 10</u>; or
 - o <u>Form 2</u>.
- Individuals report use tax on:
 - o <u>Form 3</u>;
 - o <u>Form 1040N</u>; or
 - Form 2 (only if claiming credit for tax paid to another state).

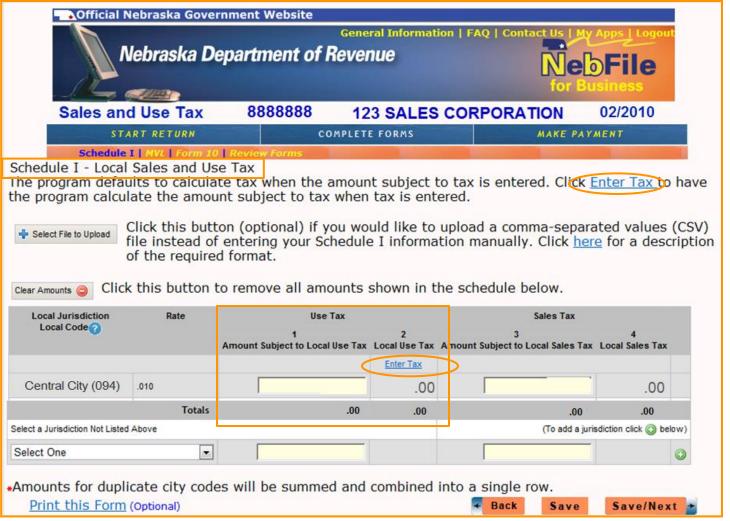
Note: Do not use Form 1040XN to make changes to individual use tax filings.

Businesses that hold a Nebraska Sales and Use Tax Permit, must use Form 10.

Official Nebraska Government Website												
		Ne	braska Department of Revenue	Contact Us Login								
Nebraska Net Taxable Sales and Use Tax Worksheets												
Net Taxable Sales Worksheet												
1.	. Gross Sales and Services in Nebraska [1-007] Line 1, Form 10											
	ALLO!	WABL	E EXEMPTIONS AND DEDUCTIONS FROM GROSS SALES									
	+	Α.	Sales of nontaxable services as shown in Regulation [1-12]									
		в.	Sales of items sold for resale as shown in Regulation [1-013]									
	+	c.	Sales to exempt purchasers as shown in Regulation [1-012]									
	+	D.	Sales of exempt items as shown in Regulation [1-012]									
	+	E.	Exempt Sellers as shown in Regulation [1-012]									
	+	F. G. H.	Use-based exemptions as shown in Regulation [1-012] Other allowable deductions. Click here for a list of allowable deductions and the applicable regulations Subtotal of all allowable exemptions and deductions [A through G]									
2.	Net T	⁻ axab	le Sales (Line 1 minus Line H) Line 2, Form 10 Nebraska Use Tax Worksheet									
1.			ems and taxable services purchased for use in Nebraska on which									
2.	Cost	of ite	ms withdrawn from inventory for personal or business use									
3.	Total	amo	unt subject to Nebraska use tax (line 1 plus line 2)									
4.	Nebra	aska (use tax (line 3 multiplied by the rate identified on line 3 of Form 10)									
5.	Credit	t for	tax paid to other states on items in line 4									
6.	. Nebraska use tax due (line 4 minus line 5). Line 4, Form 10											
	Move values below to Form 10											
Form	10, Lin	ne 1	Form 10, Line 2 Form 10, Line 4									

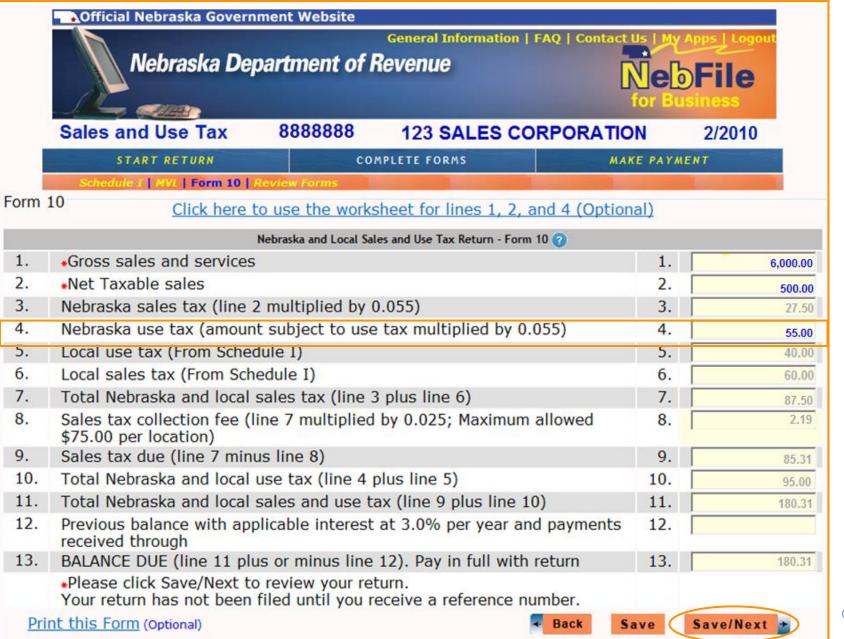
This screen shows the optional Nebraska Use Tax Worksheet used to help calculate line 4 on Form 10.

Use Tax (continued)



- On Schedule I, local jurisdictions reported within the last 12 months will be shown.
- The program defaults to enter the "Amount Subject to Tax."
 Click on the blue "Enter Tax" link to enter the amount of tax.

Use Tax (continued)



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THIS RETURN IS DUE ON OR BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE TAX PERIOD INDICATED ABOVE.

www.revenue.ne.gov, (800) 742-7474 (NE and IA), (402) 471-5729

Mail this return and payment to: NEBRASKA DEPARTMENT OF REVENUE, PO BOX 98923, LINCOLN, NE 68509-8923.

6-158-1974 Rev. 3-2011 Supersedes 6-158-1974 Rev. 5-2009 **Use Tax (continued)**

Businesses use Form 2 if they do not hold a sales tax permit.

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Use Tax (continued)

Individuals use <u>Form 3</u>.

Use Tax

	Nebraska Department of REVENUE			gh December 31	ne Tax Return 1,2014 or other taxable year:	FORM 1040 2014	
	Your First Name and Initial		Last Name		PLEASE DO NOT WRITE IN THIS SPACE		
e or Print	If a Joint Return, Spouse's Fi	rst Name and Initial	Last Name				
Yease Type	Current Mailing Address (Nur	mber and Street or PO E					
-	City		State	Zip Code			
_							
3		•	e applicable sales tax was				
	Enter purchases subj				_ (purchases x 5.5%); urchases x local rate of %)		
	95 Local code			Ф(ри	nonases x local rate or%)		
			,,	e, enter -0- on l	line 38		00

- Report individual use tax on line 38 of Form 1040N.
- If the taxpayer has a credit for tax paid to another state, along with use tax, report both the credit and tax on <u>Form 2</u>.
- If the taxpayer needs to report use tax to multiple local jurisdictions, report it on <u>Form 3</u>.

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Summary of Sales Tax

- Nebraska Sales Tax
- Sales Tax is Calculated on Gross Receipts
- Delivery Location and the Local Sales Tax
- Collecting, Documenting, and Reporting Sales Tax
- Nebraska e-pay
- What is Use Tax?

Other Tax Information

Labor Charges Associated with Personal Property

- Taxable
 - Production and assembly labor
 - Installation and repair labor when the item is taxable
- Exempt
 - Installation labor when the item is exempt
 - Repair labor (see the next slide)

Exempt Repair Labor Charges

- Licensable motor vehicle
- Agricultural machinery and equipment used in commercial agriculture
- Qualifying prosthetic devices and durable medical equipment (Form 13 required)
- Mobility-enhancing equipment (Form 13ME required)
- Qualified MME (Form 13 required)

Gross Receipts

Four exceptions to separately stating sales tax:

- Admissions
- Alcohol by-the-drink
- Concessions
- Vending machines

For more information, see <u>Reg-1-007</u> – Gross Receipts Defined.

Example:

You charge your customer \$10 for a pitcher of beer in a city with a 1.5% local sales tax.

The customer's bill would show:
Pitcher of beer \$10

To determine gross receipts and the amount of sales tax:

- Divide \$10 by 1.07 (1 plus the total state and local sales tax rate). The gross receipts is \$9.35.
- Subtract \$9.35 from \$10 to get \$0.65, which is the tax.

```
Gross receipts (sales price) =$9.35
State and local sales tax = $0.65
```

Delivery Charges

Delivery charges are taxable when:

- the buyer pays the seller for the delivery charge and
- the transaction is taxable.

Delivery charges are taxable regardless of the method of delivery.

Delivery Charges

If you owe use tax on a purchase, you also owe use tax on any delivery charge paid to the seller as part of that purchase.

Tips and Gratuities

- Discretionary (nontaxable)
- Mandatory (taxable)

Containers

There are two types:

- Returnable
 - Taxable to the person who will place contents into them.
- Nonreturnable
 - Nontaxable when the person will fill the container and sell the contents with the container.

Prepaid Wireless Telecommunication Services

Prepaid mobile phones and phone cards are subject to both:

- Sales and Use Tax; and
- Prepaid Wireless Surcharge.

For more information, see <u>FAQ Prepaid Wireless Surcharge</u>

Software and Digital Goods & Services

Taxable Examples

Software/software installation

- Tangible medium
- Internet transferred software
- Software training/re-training by the seller
- Maintenance agreements with updates

Digital goods

- Electronic books and book clubs
- Downloading songs & ringtones
- Movies, music videos, & TV shows

Services

 Virus protection software, monitoring services, security services, and testing

Software and Digital Goods & Services

Nontaxable Examples

Software/software installation

- Cloud computing
- Accessing web-based applications (no code necessary)
- Access codes for online subscription services

Digital goods

- Web design without license transfer
- Electronically-transferred photographs

Services

Help desk without updates

For more information, see <u>Reg-1-088 – Software</u> and the <u>Computer Software</u> information guide.

Manufacturing Machinery & Equipment (MME)

Manufacturing Machinery and Equipment (MME) is Exempt:

When the purchaser of qualified equipment is engaged in manufacturing.

 The revenue test for manufacturing activity (See Reg 1-107.02)
 no longer applies per Farmers Cooperative v.
 Nebraska Department of Revenue.

Manufacturing Machinery and Equipment (MME) is Exempt:

- A Form 13 must be issued to the retailer of the MME.
- The percent of usage test for manufacturing equipment (See Reg 1-107.02)
 no longer applies per Kerford Limestone Co. v. Nebraska

The Sales and Use Tax Regulations will be updated to reflect the court decisions referenced above.

Department of Revenue.

MME Includes Machinery or Equipment Used for

- Producing, fabricating, assembling, processing, molding, shaping, finishing, refining, or packaging tangible personal property
- Transporting, conveying, handling, or storing the manufactured goods or raw materials
- Maintaining the integrity of the products or unique environmental conditions for the products or MME itself

MME Includes...

- Testing or measuring the product, the manufacturing process, or the quality of the finished products
- Computers, software, and peripheral equipment used to guide, control, operate, or measure the manufacturing process
 - o Example:

Software used to direct robotic assembly line equipment to move the product down the line.

MME Includes...

- Self-constructed equipment
- Replacement parts
- Repair labor charges

MME Does Not Include...

- Licensable motor vehicles
- Tools powered by hand
- Security equipment
- Safety apparel
- Office equipment
- Repair shop equipment
- Most cleaning equipment
- Equipment used for research and development

Just a Few More Things...

Drugs

Drugs for human use are tax exempt when prescribed in writing by a physician or dentist

- Drugs can be either dispensed by a pharmacist or administered by a health care professional
- Refilling a prescription

Over-the-counter drugs for human use are taxable when purchased

With or without prescription

Medicines for Food-Producing Animals

Medicines for animal life, the products of which ordinarily constitute food for human consumption, can be purchased tax exempt.

Examples include, but are not limited to:

- Bees
- Cattle
- Chickens
- Game birds

- Sheep
- Swine
- Turkeys

Medicines for Nonfood-Producing Animals

Medicines for nonfood-producing animals are subject to sales tax.

Examples include, but are not limited to:

- Domesticated elk and deer
- Horses, donkeys, mules, and work animals
- Ostriches and emus
- Pets (birds, cats, dogs, etc.)

Bottom Line for Drugs

Prescription drugs filled by a pharmacy or administered by a health professional for human use are tax exempt.

Prescription drugs filled by a pharmacy for animals that are not raised for food (for example, dogs or cats) are taxable.

Sales and Use Tax

- New Sales Tax Exemptions
 - Gold, silver, platinum, or palladium bullion (04/01/14)
 - Metal or paper used as currency (04/01/14)
 - Separately-stated charges for U.S. postage on direct mail (04/01/14)
 - Liberalized qualifications for C-BED projects (07/18/14)
 - Agricultural repair and replacement parts (10/01/14)
 - Energy used to compress natural gas used as a fuel for motor vehicles (01/01/15)

Sales and Use Tax

 ATV/UTV – The county treasurer will collect sales tax from purchasers of ATVs and UTVs, as defined, at the time the vehicle is titled (rather than at the point of sale).

Note – The county treasurer will collect local sales tax based on where the purchaser takes possession (not the place of titling).

Purchasing a Business = Buying a Liability?

The buyer can be held liable for taxes due by the previous owner up to the amount of the purchase price, even if a lien has not been recorded.

Protect yourself!

Certificate of Clearance:

- Buyer or seller requests and receives the certificate in writing.
- If buyer makes request, seller must sign the form.
- Request the certificate by filing a Form 36, Tax Clearance Application.
- o Form 36 should be filed at least 15 days prior to closing.

The Department will:

 Advice whether or not buyer should withhold funds from the purchase amount, including any assumed debt, to cover outstanding tax liability.

Failure to Keep Records Could Lead to:

- Tax assessments
- License suspension
- License revocation

For more information, see Neb. Rev. Stat. § 77-2705(6)(a)(ii)

Why Would We Audit You?

- Audit of another taxpayer
- Department staff experiences
- Referrals from outside sources
 - Media
 - Tip line
 - Other government agencies
- Data mining
 - Comparisons with other companies
 - Trends, patterns, and relationships
 - Industry standards
- Follow-up audits

Records

- Every seller is required to keep records.
 - Documents
 - List of items or services consumed in the business
 - Normal books of account
 - Receipts showing taxes paid
 - Resale and exempt sale certificates
 - Schedules
 - Working papers used in preparing tax returns

We recommend you retain records for 5 years after a return is filed.

Electronic cigarette

- E-cig
- E-cigarette

Personal vaporizer

PV

Electronic nicotine delivery system

ENDS

These devices, including the replacement tanks or cartridges, are tangible personal property and subject to sales and use tax.

Electronic cigarettes do not contain tobacco. They are not subject to Nebraska tobacco tax.



Margaret Akin (308)633-2234 margaret.akin@nebraska.gov

Steve Drzaic (402)595-2078 steve.drzaic@nebraska.gov

Taxpayer assistance 800-742-7474 revenue.nebraska.gov

Thank you!